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FAX NO. 3523725800

P. 01

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JAN 20 2004

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OFFICIAL

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TO: Examiner Phillip Gambel, Ph.D.
COMPANY: U. S. Patent Office, Group Art Unit 1644
FAX NO.: (703) 872-9306
FROM: Jeff Lloyd
DATE: January 20, 2004

NUMBER OF PAGES (INCLUDING COVER SHEET): 5

MESSAGE:

Re: Serial No. 09/832,865
REGULATION OF SYSTEMIC IMMUNE RESPONSES
UTILIZING SOLUBLE CD40
Our Docket No.: USP-T142X

Attached hereto is

1. ELECTION UNDER 35 USC §121 (1 page)
2. COPY OF EXAMINER COMMUNICATION (3 pages)

If you do not receive all pages or if any transmission is not legible, call the sender at (352) 375-8100.

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on 20 Jan 2004.

ELECTION UNDER 35 USC §121
EXAMINING GROUP 1644
Patent Application
Docket No. USF-T142X
Serial No. 09/832,865

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Jeff Lloyd, Patent Attorney

JAN 20 2004

OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Phillip Gambel, Ph.D.
Art Unit : 1644
Applicant(s) : Hua Yu
Serial No. : 09/832,865
Filed : April 12, 2001
For : Regulation of Systemic Immune Responses Utilizing Soluble CD40

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ELECTION UNDER 35 USC §121

Sir:

In response to the Communication mailed December 11, 2003, Applicant further elects Subspecies C (IL-12 and GM-CSF). The initial Election of Group 1 (claims 1-9) and Species A (tumor cells) was made on September 30, 2003.

Respectfully submitted,

Jeff Lloyd
Patent Attorney

Registration No. 35,589

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JL/srp

JAN-20-04 TUE 11:12 AM SALIWANCHIK

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P. 03



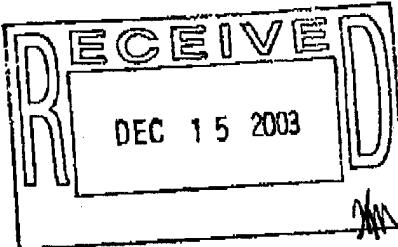
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,865	04/12/2001	Hua Yu	USP-T142X	1377

7590 12/11/2003

Jeff Lloyd, Esq.
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Gainesville, FL 32606-6669



EXAMINER	
GAMBEL, PHILLIP	
ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

09/1832865

DEA/TC-1994

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
LG 44	12/15/03
DATE MAILED:	

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

Applicant's election of Group I (claims 1-9) and Species A (tumor cells), in the Election, filed 10/02/03 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In addition to applicant's election of Group I (claims 1-9) and Species A (tumor cells), applicant is required to elect an additional species from the following of record.

This application contains claims directed to the following patentably distinct species of the claimed Group I (as well as Groups III / IV / V / VI, if claims are added): wherein methods comprise administering one or more cytokines selected from the group of:

- A) IL-12,
- B) GM-CSF or
- C) IL-12 and GM-CSF.

These species are distinct because their structures and modes of action are different.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic, for example.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gabel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

After January 20, 2004, Phillip Gabel's telephone number will be (571) 272-0844 and
Christina Chan's telephone Number will be (571) 272-0841.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 872-9306.

Phillip Gabel

Phillip Gabel, PhD.
Primary Examiner
Technology Center 1600
December 10, 2003